

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MATTEL, INC.,

Plaintiff,

09 CV

-against-

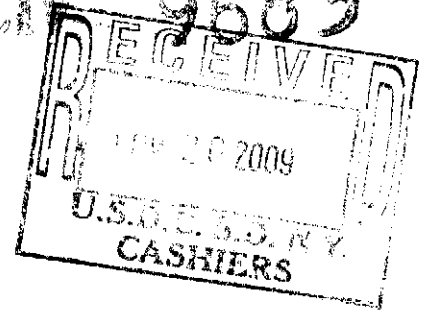
VERIFIED COMPLAINT

M/V "CMA-CGM VIVALDI", her engines,
boilers, etc. and CMA-CGM, SA,

Defendant.

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1. This is a case of contract, cargo damage and non-delivery of cargo, civil and maritime and is an admiralty and maritime claim within the meaning of the Rule 9(h). Plaintiff invokes the maritime procedures specified in Rule 9(h).
2. Plaintiff, MATTEL, INC., is a legal entity organized under the law, with an office located at 333 Continental Blvd., El Segundo, California 90245. Defendant, CMA-CGM, SA, is a legal entity organized under the law, with an agent, CMA-CGM (AMERICA), LLC, located at 300 Lighting Way, 2nd Floor, Secaucus, New Jersey 07094.
3. During all times herein mentioned, defendant was the owner and/or operator of the M/V "CMA-CGM VIVALDI" and operated it in the common carriage of goods by water for hire between Chiwan, China and Long Beach, California, with on carriage to Fort Worth Texas.
4. The M/V "CMA-CGM VIVALDI" is now or during the pendency of this action will be, within this District.
5. On or about November 4, 2008, TAUNUS PRINTING (HK) CO. LTD. O/B MATTEL ASIA PACIFIC SOURCING LTD.; JET FAIR INDUSTRIAL LTD.; OP PRINTING



LTD.; CHANG AN MATTEL TOYS 2ND FACTORY O/B MATTEL ASIA PACIFIC SOURCING LTD. and RADICA (MACAO COMMERCIAL OFFSHORE) LTD., delivered a shipment of cartons of toys, games, dolls, electronic games, plastic jewelry, card games and other various toys to defendant, as a common carrier at the port of Chinwan in good condition, for transportation on board the M/V "CMA-CGM VIVALDI" to Long Beach, California and on carriage to Fort Worth, Texas delivery to plaintiff in consideration of an agreed freight and pursuant to the valid terms and conditions of clean on board bills of lading issued by defendant and the M/V "CMA-CGM VIVALDI" and a Service Contract entered into between MATTEL, INC. and CMA-CGM, SA.

6. Defendant caused said goods, still in good order and condition to be laden on board the M/V "CMA-CGM VIVALDI". On or about November 22, 2008, the M/V "CMA-CGM VIVALDI" arrived at the port of Long Beach and thereafter failed to deliver said shipment at Fort Worth, Texas in a sound condition but rather in a short, slack and damaged condition.
7. Prior to November 22, 2008, plaintiff became for value the owner of said shipment and the owner and hold of said clean on-board bills of ladings and brings this suit on its own behalf and that of all others interested in said shipment.
8. All conditions precedent required of plaintiff and of all others interested in said shipment have been performed.
9. By reason of the premises, plaintiff and those on whose behalf this suit is brought have sustained damages in the sum of \$1,500,000.00, as nearly as the same can now be estimated, no part of which has been paid although duly demanded.


WHEREFORE, plaintiff prays:

1. That the M/V "CMA-CGM VIVALDI" be arrested;
2. That process issue against defendant CMA-CGM, SA and that defendant be cited to appear and answer the allegations of the Complaint;
3. That an interlocutory judgment be entered in favor of the plaintiff against the M/V "CMA-CGM VIVALDI" and against defendant directing that the plaintiff recover its damages and that the M/V "CMA-CGM VIVALDI", be condemned and sold and the proceeds of sale be applied to the payment to plaintiff of the sums found due it;
4. That the amount due plaintiff be computed by further proceedings before a Magistrate, pursuant to Rule 53(b) and/or by further proceedings before the Court, pursuant to Rule 42(b);
5. That final judgment against defendant and the M/V "CMA-CGM VIVALDI", be entered in favor of the plaintiff for the amount found due plaintiff with interest and with costs; and
6. That plaintiff have such other and further relief as may be just.

Dated: New York, New York
November 20, 2009

By:

McDERMOTT & RADZIK, LLP
Attorneys for Plaintiff


William R. Connor III (WC 4631)
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File No.: GM-09-3701 WRC/TF

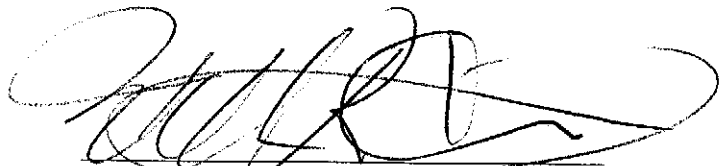
STATE OF NEW YORK)
 : S.S.
COUNTY OF NEW YORK)

WILLIAM R. CONNOR III, being duly sworn, deposes and says:

I am a member of the firm of McDermott & Radzik, LLP. attorneys for the Plaintiffs in this action.

I have read the foregoing Verified Complaint, know the contents thereof, and the same is true to the best of my knowledge, information and belief.

The sources of my information and the grounds of my belief are documents in the possession of my firm.



William R. Connor III (WC 4631)

Sworn to before me this
20th day of November, 2009


Notary Public

MATTHEW T. LOESBERG
Notary Public, State of New York
No. 02106051626
Qualified in New York County
Commission Expires 12-17-2010